

# MODEL CRIMINAL PROCEDURE

## **Petition for Sentence Adjustment §973.195**

Pursuant to sec. 973.195, Stats., an inmate who is serving a sentence imposed under §973.01 for a crime other than a Class A or B Felony, may petition the sentencing court to adjust the sentence. Sentence adjustment is available only if the inmate has served at least the applicable percentage of the term of confinement of the prison portion of the sentence. If an inmate is subject to more than one sentence imposed under §973.195, the sentences shall be treated individually for purposes of sentence adjustment.

*All forms referred to in this procedure are state mandated forms, and are available on the Circuit Court forms website.*

Upon receipt of a Petition for Sentence Adjustment, Form CR-258, Verification of Time Served, Form CR-261, and any attachments, the sentencing court may deny the petition or hold the petition for further consideration.

1. Receive and file/date stamp the petition, verification and any attachments.
2. Enter the event code PSAD and VTS for the petition and verification.
3. If the *court denies the petition*, the court shall complete and sign the Order Concerning Sentence Adjustment, CR-260. After the judge completes and signs the order, enter the order in the court record, OCSA, noting the decision of the court. Forward two copies of the order to the District Attorney's Office.

NOTE: In order to comply with Chapter 950, Wisconsin Statutes, and Article I, Section 9m, Wisconsin Constitution, the district attorney shall notify the victim(s) of the petition and provide the victim(s) with a copy of the order denying same.

4. If the *court holds the petition for further consideration*, the court shall notify the district attorney of the inmate's petition. Complete the Notice to District Attorney/District Attorney Response on Petition for Sentence Adjustment, Form CR-259. Forward two copies of the petition and any attachments to the district attorney (see above note).
  - If the *district attorney objects* within 45 days of receiving notification by filing the completed District Attorney Response section of CR-259, enter the response NDAR in the court record. Upon the objection of the district attorney, the court shall deny the inmate's petition and complete and sign the Order Concerning Sentence Adjustment, Form CR-260. Enter the order OCSA in the court record. Forward two copies of the order to the District Attorney's Office (see above note).

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- If the inmate is seeking adjustment of a sentence for an offense under s. 940.225(2) or (3) (second or third-degree sexual assault), 948.02(2) (second-degree sexual assault of a child) or 948.08 (solicitation of a child for prostitution), the *victim may object* within 45 days of notice to the district attorney. Upon receipt of the objection, the court shall deny the inmate's petition. Complete and sign the Order Concerning Sentence Adjustment, Form CR-260. Enter OCSA in the court record. Forward two copies of the order to the District Attorney's Office (see above note).
  - If the *sentencing court receives no objection from the district attorney or the victim*, and the court determines the sentence adjustment is in the public interest, the court may adjust the inmate's sentence.
5. If the court grants the petition, the court shall complete and sign the Order Concerning Sentence Adjustment, Form CR-260. The order should specifically state reasons for any sentence adjustment granted. Enter OCSA in the court record. Forward two copies of the order to the District Attorney's Office (see above note). Prepare an Amended Judgment of Conviction, Form CR-212A.
  6. If the court denies the petition, the court shall complete and sign the Order Concerning Sentence Adjustment, CR-260. After the judge completes and signs the order, enter the order in the court record, OCSA, noting the decision of the court. Forward two copies of the order to the District Attorney's Office (see above note).